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[WFO 104]

PART 1202—FARM MACHINERY AND EQUIPMENT

DISTRIBUTION OF NEW METAL MILK CANS AND COVERS

The fulfillment of requirements for the defense of the United States will result in a shortage in the supply of new metal milk cans for defense, for private account and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

Sec.
1202.376 Manufacturers' transfer of 20-, 32- and 40-quart milk cans.
1202.377 Manufacturers' transfer of milk cans of less than 20-quart capacity.
1202.378 Transfers of milk cans for use in handling milk or milk products in the continental United States.
1202.379 Transfers of milk cans for uses other than in handling milk or milk products.
1202.380 Transfers of milk cans to a Federal agency.
1202.381 Transfers of milk cans for shipment outside the continental United States.
1202.382 Transfers of milk cans within Alaska, Hawaii, Puerto Rico and the Virgin Islands.
1202.383 Manufacturers' reports.
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1202.386 Petition for relief from hardship.
1202.387 Violations.
1202.388 Delegation of authority.
1202.389 Supplementary Order No. 3 to War Food Order No. 14 superseded.
1202.390 Communications.
1202.391 Effective date.

AUTHORITY: §§ 1202.376 to 1202.391, inclusive, issued under 54 Stat. 676, 55 Stat. 236, 56 Stat. 176; E.O. 9280, 9322, 9334, 9392; 7 F.R. 10179, 8 F.R. 3807, 5423, 14783.

§ 1202.376 *Manufacturers' transfer of 20-, 32- and 40-quart milk cans.* (a) Each manufacturer may transfer not in excess of the following percentages of his scheduled production of 20-, 32- and 40-quart milk cans during the designated calendar quarters, and the remainder of such production shall constitute a reserve:

Calendar quarter commencing—	Authorized for transfer	Reserve
	Percent	*Percent*
July 1, 1944	85	15
Oct. 1, 1944	85	15
Jan. 1, 1945	70	30
Apr. 1, 1945	70	30

(The percentages of scheduled production of milk cans here authorized to be transferred relate to the total scheduled production of milk cans of all three capacities mentioned, and not to each separately.) In making the transfer of milk cans authorized by this paragraph, during any of the calendar quarters mentioned, no manufacturer shall transfer into any State a percentage of such milk cans greater than the percentage which his total transfers of milk cans into such State in 1941, 1942 and 1943 was of his total transfers during those years into all States. However, if a manufacturer is unable during any calendar quarter to transfer into any State the full number of milk cans permitted by this paragraph, such manufacturer may transfer the remainder into such State during any subsequent calendar quarter in addition to other permitted transfers. For the purposes of this paragraph, when a manufacturer transfers milk cans to a distributor or other person who operates in more than one State, such transfer will be considered as having been made into the State in which the office (home or branch office) of the distributor or other person placing the order is located.

(b) (1) The Director is hereby authorized to direct the transfer of the reserve established by paragraph (a) of this section. In so doing, the Director may direct the transfer of a manufacturer's current production at any given time, or he may direct the transfer of the reserve from the inventory of such equipment.

(2) Any person in the continental United States, who wishes to make a transfer or accept a transfer of milk cans from a manufacturer's reserve for the purpose of handling milk or milk products may apply to the Director. Such application shall be in writing and shall be filed with the State AAA Committee for the State in which the milk cans will be principally used, and such State AAA Committee shall promptly transmit such application to the Director, together with its recommendation. If the milk cans will be principally used in the District of Columbia, the application shall be filed with the State AAA Committee for Maryland.

(3) If, by the fifteenth day before the end of any calendar quarter, the Director has not directed or prohibited the transfer of part or all of a manufacturer's reserve, such manufacturer may transfer his undirected reserve either (i) in the same manner provided in paragraph (a) of this section, or (ii) in accordance with a distribution plan submitted to the Director, unless the Director disapproves such plan and written notice of such disapproval is given to such manufacturer within seven working days after delivery of such distribution plan to the Director. The mailing of such distribution plan to the Director by registered mail shall constitute delivery of the plan under this paragraph.

§ 1202.377 *Manufacturers' transfer of milk cans of less than 20-quart capacity.* Subject to the provisions of §§ 1202.379, 1202.380 and 1202.381, a manufacturer may transfer 100 percent of his production of milk cans of less than 20-quart capacity, and such transfer may be made without regard to any previous distribution by States.

§ 1202.378 *Transfers of milk cans for use in handling milk or milk products in the continental United States.* Subject to the provisions of § 1202.376, any person, other than a Federal agency, may make a transfer or accept a transfer of milk cans for use in handling milk or milk products in the continental United States without further authorization. (Purchase certificates are no longer required.)

§ 1202.379 *Transfers of milk cans for uses other than in handling milk or milk products.* No person shall make a transfer or accept a transfer of milk cans of any capacity for use other than for handling milk or milk products, except pursuant to a written authorization from the Director.

§ 1202.380 *Transfers of milk cans to a Federal agency.* No Federal agency shall accept a transfer of milk cans of any capacity, except pursuant to a written authorization from the Director.

§ 1202.381 *Transfers of milk cans for shipment outside the continental United States.* No person shall make a transfer or accept a transfer of milk cans of any capacity for shipment, nor shall any person ship milk cans of any capacity, outside the continental United States, except pursuant to a written authorization from the Director.

§ 1202.382 *Transfers of milk cans within Alaska, Hawaii, Puerto Rico and the Virgin Islands.* The Director is authorized to exercise such control over the transfer of milk cans for use in handling milk or milk products in Alaska, Hawaii, Puerto Rico and the Virgin Islands as he shall deem necessary. In the absence of the exercise of this authority by the Director, the transfer of milk cans within Alaska, Hawaii, Puerto Rico and the Virgin Islands to any person, other than a Federal agency, for use in handling milk or milk products shall be made without further authorization. Transfers of milk cans for other uses and to Federal agencies are subject to the provisions of §§ 1202.379 and 1202.380.

§ 1202.383 *Manufacturers' reports.* Each manufacturer of milk cans shall, within 10 days after the commencement of any calendar quarter, furnish the Director with a report on Form HR-124 with respect to transfers of milk cans of

20-, 32- and 40-quart capacity made during the preceding calendar quarter. In making this report, however, the capacity of the milk cans should not be distinguished.

§ 1202.384 *Definitions.* For the purposes of this order:

(a) "Milk can" means a steel container, suitable for use in connection with the transportation in bulk of fluid milk and fluid milk products, which possesses the following characteristics:

(1) A substantially cylindrical shape;

(2) A coating of tin or a substitute sanitary coating;

(3) A "necked-in" top so that the opening is smaller than any part of the body cylinder.

As here used, "milk can" means only a new milk can, and includes a can and cover transferred together and a can transferred apart from a cover, but it does not include a cover transferred apart from a can.

(b) "State" means any of the forty-eight States or the District of Columbia.

(c) "Continental United States" means the forty-eight States and the District of Columbia.

(d) "Transfer" means any actual or purported act or transaction, whether or not evidenced by writing, the purpose, intent, or effect of which is to create, surrender, release, change, or alter, directly or indirectly, any right, title, interest or possession with respect to any milk cans. The use of milk cans by any person, who manufactures or deals in milk cans, shall be deemed a transfer. Notwithstanding the foregoing, the delivery of milk cans to a carrier for shipment or the delivery of milk cans by a carrier to a consignee shall not be deemed to be a transfer within the meaning of this order.

(e) "State AAA Committee" means the State Agricultural Conservation Committee of the Agricultural Adjustment Agency of each State.

(f) "Person" means any individual, partnership, corporation, association, business trust or any organized group of persons whether incorporated or not. The term "person" shall also include the United States or any agency thereof, and a State or any political subdivision or agency thereof.

(g) "Director" means the Director of the Office of Materials and Facilities of the War Food Administration.

§ 1202.385 *Audits and inspections.* The Director shall be entitled to make such audit or inspection of the books, records and other writings, premises or stocks of milk cans, of any person, and to make such investigations, as may be necessary or appropriate, in the Director's discretion, to the enforcement or administration of the provisions of this order.

§ 1202.386 *Petition for relief from hardship.* Any person affected by this order who considers that compliance herewith would work an exceptional and unreasonable hardship on him may apply in writing for relief to the Director, setting forth in such petition all pertinent facts and the nature of the relief sought. The Director may thereupon take such action as he deems appropriate, which action shall be final.

§ 1202.387 *Violations.* In accordance with the applicable procedure, any person who violates any provision of this order may be prohibited from receiving, making any deliveries of, or using milk cans. In addition, any person who wilfully violates any provision of this order is guilty of a crime and may be prosecuted under any and all applicable laws. Further, civil action may be instituted to enforce any liability or duty created by, or to enjoin any violation of, any provision of this order.

§ 1202.388 *Delegation of authority.* The administration of this order and the powers vested in the War Food Administrator, insofar as such powers relate to the administration of this order, are hereby delegated to the Director. The Director is authorized to redelegate to any employee of the United States Department of Agriculture any or all of the authority vested in him by this order.

§ 1202.389 *Supplementary Order No. 3 to War Food Order No. 14 superseded.* Supplementary Order No. 3 [1] to War Food Order No. 14[2] is hereby superseded: *Provided,* That said Supplementary Order No. 3 to War Food Order No. 14 shall remain in full force and effect for the purpose of allowing or sustaining any suit, action, prosecution or administrative or other proceeding, heretofore or hereafter commenced with respect to any violation committed or right or liability accruing under or pursuant to the terms of said order.

§ 1202.390 *Communications.* All reports required to be filed hereunder and all communications concerning this order shall, unless instructions to the contrary are issued by the Director, be addressed to the Director, Office of Materials and Facilities, War Food Administration, Washington 25, D. C., Ref: WFO.

§ 1202.391 *Effective date.* This order shall become effective July 1, 1944.

NOTE: All reporting requirements of this order have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued this 29th day of June 1944.

ASHLEY SELLERS,
Assistant War Food Administrator.

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[1] 9 F. R. 775.
[2] 8 F. R. 17456, 9 F. R. 4319.